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05-3 86 SEP 21 2005

No.

OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

IN RE: MAUDE DUNN
AND ELLEN DUNN

Petitioners

v.

JO ANNE BARNHART,
KAY COLES JAMES,
MARK WARNER,
ANTHONY WILLIAMS, &
KENNETH D. LEWIS

Respondents

On Petition For Writ of Mandamus
To the United States Federal Appeals Court
For The District of Columbia Circuit

PETITION FOR WRIT OF MANDAMUS

MAUDE DUNN AND ELLEN DUNN

Pro Se Petitioners

1323 WEBSTER STREET, N.E.

WASHINGTON, DC 20017

202-526-6816

**QUESTIONS PRESENTED IN THIS PETITION FOR A
WRIT OF MANDAMUS**

- (1) Whether the United States Court of Appeals for the District of Columbia Circuit, discriminated against Maude Dunn and Ellen Dunn when it changed the standards of conduct in a judicial complaint to allow a district judge to engage in discussions with opposing council during a judicial proceeding while denying the plaintiff's request for legal representation.
- (2) Whether the United State Court of Appeals for the District of Columbia Circuit, is engaging in practices that are not consistent with Congressional intent under Title II of the Americans with Disabilities Act (ADA) of 1990 and are blocking the reporting of appropriate anecdotal evidence, of violations to the 5th amendment and 14th amendment violations, to Congress and the Supreme Court.

**LIST OF PARTIES AND CORPORATE DISCLOSURE
STATEMENT**

All parties to the case are contained on the front cover of the petition.

According to Supreme Court Rule 29(6) a plaintiff who was a government employee is not required to file a corporate disclosure statement. The plaintiff in this case contends that he was a government employee employed by a federal agency.

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Public Utilities Comm'sn of D.C. v Pollak, 343 U.S. 451,466-467,72 S.Ct. 813, 822-823, 96 L.Ed 1068 (1952)	12

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UNITED STATES CONSTITUTION

5 TH Amendment.....	2,12,13
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UNITED STATES LAW

**Title II to the American with Disabilities Act...3,4,6,12,13
of 1990**

**FEDERAL STATUTES, AGENCIES, STATES, AND
FINANCIAL ORGANIZATIONS**

Bank of America (BoFA).....	3,5
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STATEMENT OF THE BASIS FOR JURISDICTION IN THIS COURT

The Court has jurisdiction of this writ pursuant to 28 U.S.C. § 2071, §2072, §2073, §2074, and §2077 in that the Court shall have the power to prescribe rules of practice and procedure for cases in the United States district courts and court of appeals.

The Congress has authorized the federal judiciary to prescribe the rules of practice, procedure, and evidence for the federal courts, subject to the ultimate legislative right of Congress to reject, modify, or defer any of the rules. The authority and procedures for promulgating rules are set forth in the Rules Enabling Act.

Pursuant to 28 U.S.C. §1651 the Supreme Court and all courts established by the Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

The Supreme Court has jurisdiction over judicial standards of conduct pursuant to 28 U.S.C. § 331, § 332, and §333. The conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedures now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law. Such changes in and additions to those rules as the conference may deem desirable to promote simplicity in procedure and fairness in administration.

CONSTITUTIONAL PROVISIONS

Amendment V, United States Constitution in pertinent part provides:

No person shall be deprived of life, liberty, or property, without due process of law.

Amendment XIV, United States Constitution in pertinent part provides:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

BACKGROUND

Maude Dunn is an 86 year old ADA mentally and physically disabled African-American female, who qualifies under the ADA based on her mental disabilities. Ellen Dunn is Maude Dunn's daughter and full time caregiver, who qualifies under ADA because her discrimination occurred as a result of her protection of and request for investigation of abuse against her mother.

On May 25, 2005 Maude and Ellen Dunn filed a complaint (App.1-a) in the United States District Court of the District of Columbia against the Social Security Administration (SSA), Office of Personnel Management (OPM), Bank of America (BoFA), Virginia (VA), and District of Columbia (DC) for discrimination and violations to 5th and 14th amendment rights to due process, equal protection, and other statutory violations. At the same time the Dunns filed motions (App. 17-a and App. 21-a) requesting the appointment of a Guardian ad Litem and Special Master for legal protection and legal representation. Maude and Ellen Dunn sought a hearing to have the SSA, OPM, and BoFA provide evidence of the federal authority under which they restricted Maude Dunn's constitutional rights or discontinue the violation. After a 9 year battle, the Dunns based their complaints on federal and state laws, public records, Supreme Court rulings, and documents signed by federal and state officials for a continuing pattern of discrimination. After the hearing Maude and Ellen Dunn filed App. 21-a, which was a second motion seeking legal representation. App. 25-a provides an excerpt from the public record that the documents used against Maude and Ellen Dunn was not supported by statute.

Prior to going into court the Dunns filed a complaint with the U.S. Justice Department. The Justice Department also

dismissed Maude and Ellen Dunn's complaint in App. 26-a, which would have established a record of due process violations under Title II to the American with Disabilities Act of 1990.

The complaint filed in the U.S. District Court of the District of Columbia charges that Virginia discriminated against Ellen Dunn and Maude Dunn under Title II to the American with Disabilities Act of 1990. Virginia engaged in irrational disability discrimination by violating their Fourteenth Amendment rights to equal protection in the application of state guardianship statutes and official records obtained under state Freedom of Information statutes. Virginia did not: consider the durable powers of attorneys (App 27-a and App 29-a) that were in place based on Virginia Code (VC) §37.1-134.14; afford Maude Dunn the right to legal representation during the hearing based on Virginia Code (VC) §37.1-134.12; afford Maude Dunn a Guardian Ad Litem appointed by the judge of record based on VC §37.1-134.9; afford Maude Dunn a medical assessment based on VC §37.1-134.11; afford Maude Dunn and Ellen Dunn a public hearing based on VC §37.1-134-13; afford Maude Dunn and Ellen Dunn the right to petition for rescission based on VC §37.1-134.16; afford Maude Dunn and Ellen Dunn a certified file copy of the court order by the judge based on VC §37.1-1334.15 and statement from the Virginia Office of the Attorney General; conduct an annual review by state social services office based on VC §37.1-137.2; and allow a judicial review of guardianship and court procedures based on Writ of Mandamus filed in Virginia Appeals Court under Record No. 0407-05-1. Additionally, the District of Columbia violated Ellen Dunn and Maude Dunn's Fourteenth Amendment right to equal protection by conducting investigations of Maude Dunn and Ellen Dunn in their DC residence and seeking Maude Dunn's financial information without having a lawful court order.

The complaint also charges that the Social Security Administration (SSA), Office of Personnel Management (OPM),

and Bank of America (BoFA) acted to support the state of Virginia in violating Maude Dunn and Ellen Dunn's civil rights by violating Maude Dunn's right to due process and refusing to stop the unlawful restrictive practice. Subsequent to the Supreme Court ruling *Tennessee v. Lane*, 541 U.S. 509 (2004), SSA, OPM, and BoFA violated Maude and Ellen Dunn's First Amendment right to freedom of expression and Fifth Amendment rights to due process by refusing to accept power of attorney agreements executed between Maude Dunn and Ellen Dunn and instead accepting state documents (App. 32-a) that do not meet federal standards.

On June 14, 2005, Maude Dunn came into court, physically assisted by her son and daughter, to defend her constitutional rights. The district judge improperly engaged in discussions with lawyers to the case in the absence of representatives of opposing party during the judicial proceeding and refused the Dunns' request by motion for legal protection and legal representation. While the opposing counsel did not oppose the motion for legal protection and legal representation for Maude and Ellen Dunn, they engaged in conduct that threatening and intimidating.

Maude and Ellen Dunn filed a complaint (App. 33-a) with the DC Circuit Judicial Council. The judge changed the standards of conduct as a basis for dismissal which is not fair or consistent with statutes in his response (App. 38-a). The complaint was dismissed by the judge based on changes the judge initiated to the standards of conduct, that are not fair and do not promote the just determination of litigation as prescribed in 28 U.S.C. §3331. An appeal (App. 42-a) was filed with supporting documentation and the Council rejected the review with no right of further action (App. 45-a).

Ellen Dunn was subjected to threats and intimidation (App. 47-a and App 49-a) by state officials for protecting her mother and seeking an investigation. These letters of

intimidation and oral statements during the judicial proceeding are not supported by public records in App. 25-a. In the years during which Maude Dunn's rights were restricted, none of the defendants', in response to the family's request provided copies of certified signed court orders for Maude Dunn compliant with federal statutes, state statutes, or of the Office of the Attorney General (App. 50-a). These actions denied Maude and Ellen Dunn 5th and 14th amendment right to due process and harmed Maude Dunn medically and physically.